

Chapter 137: WHARVES AND WATERWAYS, TOWN

[HISTORY: Adopted by the Annual Town Meeting of the Town of Nantucket 4-5-1983 by Art. 28, approved 5-9-1984. Amendments noted where applicable.]

§ 137-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

DIVER — Includes swimmers using fins and/or masks and/or snorkel tubes or self-contained underwater breathing devices and may include those diving without aids, where the circumstances are appropriate.

GRAY WATER — In Nantucket waters as defined above, gray water is a vessel's water/soap discharge, which is derived from galley, bath, showers, dishwashing and laundry equipment. **[Added 4-15-2003 ATM by Art. 62, approved 6-30-2003]**

HARBOR MASTER (MARINE SUPERINTENDENT) — Chief Harbor Master, duly empowered by the General Laws of the commonwealth.

IMMEDIATE FAMILY — Parents, grandparents, children, sister, brother, and spouse. **[Added 4-4-2006 ATM by Art. 63, approved 8-2-2006]**

MOOR — Any space wherein a vessel is confined by wet slip, float, mooring, rack, sling, haul-out, trailer or other type of docking facility. **[Added 4-4-2006 ATM by Art. 63, approved 8-2-2006]**

NANTUCKET WATERWAYS or WATERWAYS — Includes all of the navigable waters within the boundaries of the Town, which shall include all harbors, rivers, bays or ponds, including waterways which, from time to time, may be temporarily nonnavigable by reason of low tides, drought or seasonal weather and water conditions.

PERSONS — Includes individuals, corporations, societies, associations, partnerships and trusts.

RESCUE PERSONNEL — State and federal law enforcement officials, Nantucket Fire Department, Police Department, Marine and Coastal Resources Department personnel and Nantucket Sheriff's Department Dive Team members. **[Added 4-10-2000 ATM by Art. 56, approved 8-2-2000]**

§ 137-2. Town wharf use regulations.

- A. Except in an emergency, no boats shall be made fast to any of the Town's wharves, floats or piers without the permission of the Harbor Master.
- B. There shall be no scaling or cleaning of fish or shellfish on any of the Town's wharves, ramps, floats or piers from Brant Point inward of Nantucket Harbor or in Hither Creek from Jackson's Point inward.
- C. No person shall leave any boat or vessel, fishing equipment, fish or any other personal property upon Town landing places, floats, wharves or pier for longer than is necessary in the act of loading or unloading the same to and from boats or vehicles.
- D. The Town shall not be responsible for any loss or damage to boats or vessels at the Town wharves, floats, pier or moorings. Owners will be held responsible for damage caused by them or their vessels to structures and pilings and related facilities owned by the Town.

- E. No warp or line shall be passed across the channels or any dock so as to obstruct or interfere with vessels navigating in the area.
- F. Except in an emergency, no boats shall fuel at any of the Town's wharves, floats or piers without the permission of the Harbor Master. **[Added 4-4-2006 ATM by Art. 63, approved 8-2-2006]**

§ 137-3. Additional use regulations.

- A. The Board of Selectmen shall have the power to establish standard contracts and contract terms and fees for the rental of wharves, slips, docks and moorings.
- B. Tug boats, cargo boats and any other boats used for commercial purposes (other than charter boats and commercial fishing boats) shall not be permitted to moor at the Nantucket Town pier or wharves in Madaket, except by permission of the Board of Selectmen or Harbor Master, as appropriate.
- C. All boats or vessels using the Town wharves shall observe all police, fire, health and sanitary regulations of the Town, and the owners or operators of such boats shall not permit acts contrary to good order, public safety or public health, including public profanity or obscene language or indecent exposure. Unnecessary noise, loud talking or playing of musical instruments between the hours of 11:00 p.m. and 8:00 a.m. is not permitted. No person upon such boats shall throw garbage, paper, refuse or debris of any kind into the harbor.
- D. No vessel or watercraft of any kind whatsoever which is unseaworthy or in badly deteriorated condition or which is likely to injure a person or damage private or public property or which might become a menace to navigation shall be permitted to moor in Town waters or tie up at the Town wharves. The Harbor Master may determine whether any watercraft is unseaworthy, dangerous or in a badly deteriorated condition to render it unsafe. Upon making such a determination, the Harbor Master shall give notice to the owner, in writing, of such determination as follows: (a) if the owner is known, then by mail or hand-delivery; (b) if the owner is unknown, then by publication in a newspaper of general circulation within the Town. If, after 10 days following the publication or written notice as provided in the preceding sentence, the owner has failed to remedy the conditions leading to the determination, the Harbor Master may take appropriate steps for removal of same. At any time, the Harbor Master, notwithstanding the foregoing, may act immediately in the event of an emergency to take appropriate steps for immediate removal of any watercraft that presents an eminent threat to life or property; provided, however, that as soon as practicable after taking such action, notice of the action taken shall be provided in the manner set forth in this section. If, after 30 days from the date of notice or publication, the owner of the removed vessel shall fail to reimburse the Town for removal costs, the vessel may then, at the discretion of the Harbor Master, be sold at public auction to cover the costs of removal. If said auction produces surplus proceeds after payment of the costs of removal, said surplus shall be held in a separate account and be paid over to the owner upon proof of ownership. This shall not be deemed to apply to vessels in immediate distress as a result of current emergencies. **[Amended 4-12-1999 ATM by Art. 69, approved 8-10-1999; 4-12-2004 ATM by Art. 48, approved 9-3-2004]**
- E. Advertising signs on vessels or wharves will not be permitted at any Town-owned wharf, ramp or pier, except commercial slips. **[Amended 4-4-2006 ATM by Art. 63, approved 8-2-2006]**
- F. Repairing (other than emergency and maintenance repairs of minor nature), overhauling and/or remodeling of any watercraft at Town wharves or ramps is prohibited.
- G. All persons liable for injuring or damaging Town-owned wharves and properties shall forthwith reimburse the Town in an amount equal to the cost of repairing (new for old) such

damage, as determined by the Marine Department or Board of Selectmen.

- H. Commercial or business use of any vessel or watercraft docked at any Town-owned dock, pier or wharf is prohibited, except:
- (1) Charter or commercial fishing boats; or other uses defined as "water dependent" within the meaning of MGL c. 91, § 1, provided that such uses and the vessels employed in such uses are first allocated dock space in accordance with regulations to be adopted by the Board of Selectmen after a public hearing. **[Amended 4-10-2000 ATM by Art. 57, approved 8-2-2000]**
- I. Effective May 1, 1990, no vessel or watercraft of any kind whatsoever which is painted with paints containing butyltin compounds shall be permitted to moor in Town waters or tie up at the Town wharves, whether private or public. **[Added 4-10-1989 ATM by Art. 117, approved 7-24-1989]**

§ 137-4. Mooring regulations.

- A. Any vessel habitually moored in Nantucket shall obtain a mooring permit from the Harbor Master. No permit for a mooring, float or raft shall be transferable to another person, except to a person within the immediate family of the permittee upon approval of the Harbor Master. **[Amended 4-4-2006 ATM by Art. 63, approved 8-2-2006]**
- B. All moorings must be registered and no mooring shall be placed or maintained in any of the waters of the Town without the approval of and registration by the Marine Department. Only vessels owned by the person holding the permit or lawfully in the possession of persons lawfully entitled to possession and use of a boat for the season for which a mooring is granted, and displaying the proper sticker, will be allowed to fasten to the mooring. The permit may be issued for one or more vessels under common control, but only one vessel can be fastened to a mooring at any time. Subletting of moorings is prohibited. **[Amended 11-13-1990 STM by Art. 48, approved 3-19-1991; 4-10-2002 ATM by Art. 50, approved 7-31-2002]**
- C. All applications for a permanent mooring space in any Nantucket harbor or waterway shall be submitted in writing on an approved form to the Marine Department. At the time of application if the applicant does not own a boat or is not a person lawfully entitled to possession and use of a boat for the season for which a mooring is granted, no mooring permit will be issued. If an individual holds a valid mooring permit and sells his/her rights to the boat with the intention of replacing it, he/she will have 12 months to replace the boat. If, at the end of 12 months, the boat has not been replaced, the mooring permit shall be forfeited. **[Amended 4-10-2002 ATM by Art. 50, approved 7-31-2002]**
- D. No boat shall use a mooring within the Town unless the mooring meets the following minimum standards:

Length of Boat (feet)	Mushroom Mooring (pounds)	Concrete Block Mooring
Under 14	50	
15 to 18	75	
19 to 22	100	Subject to individual approval
23 to 28	150	
29 to 32	200	

33 to 50	500*
51 to 65	700
Over 65	Subject to ruling by Harbor Master

*NOTE: Three hundred to 400 pounds may be used where holding ground warrants, subject to Harbor Master approval.

- E. Scope and size of chain on moorings. Length of mooring chain shall be at least the vertical height above the sea bottom to four feet above mean high water. Moorings for boats up to 26 feet in length shall have a chain of 3/8 inch or larger; moorings for boats from 26 feet to 40 feet shall have a chain of 1/2 inch or larger; and mooring for boats from 40 feet or larger in overall length shall use a chain of 5/8 inch. Maximum length of chain shall be no more than 2.5 times the maximum depth of the water, except where the Harbor Master determines otherwise. The location of all moorings shall be determined from time to time by the Harbor Master. No mooring shall be located in the main stream or any channel of any of the harbors of the Town, unless, in the opinion of the Harbor Master, the particular circumstances require it. Moorings shall be located so that vessels lying on them shall not block any channel or approach to wharves or other moorings in the vicinity or create any other hazard to navigation. If used, pennant length shall be twice the distance from the bow chock to the water line. Pennant line size shall be 3/8 inch for boats up to 10 feet, 7/16 inch for boats 21 feet to 30 feet, 1/2 nylon for boats 31 feet to 40 feet.
- F. Any mooring may be inspected and its owner may be ordered by the Harbor Master to remove or relocate it whenever, in the judgment of the Harbor Master, the safety of other vessels or the optimum use of the area requires such action. The expense of such removal or relocation shall be the responsibility of the owner. Except in emergency situations, an owner shall have at least 14 days to relocate or remove a mooring when so ordered by the Harbor Master. All private moorings shall be removed from any shellfish areas prior to October 15. **[Amended 5-4-1993 ATM by Art. 52, approved 5-24-1993]**
- G. Each mooring buoy, both summer and winter, shall be painted white and have a minimum one-inch blue band visible above the water and shall be marked with numbers assigned by the Harbor Master Department. The numbers and/or letters shall be a minimum of three inches in height and be clearly visible at all times. Spar buoys shall be upright at all times and not less than 40° at any period of tide and not less than 18 inches exposed. Mooring buoys shall be of customary shape and materials, and the Harbor Master may order the removal of any buoys deemed to be inappropriate in form or appearance. A mooring permit sticker assigned by the Harbor Master shall be affixed to the port side of the bow or the port side of the mast on classic-design wooden sailboats. The number will correspond with the number on the mooring float. **[Amended 11-13-1990 STM by Art. 48, approved 3-19-1991; 5-4-1993 ATM by Art. 52, approved 5-24-1993]**
- H. Any existing mooring in place prior to April 5, 1983, shall be allowed to remain in place, provided that it meets the inspection criteria defined above. The owner of said mooring shall be allowed to upgrade to any new standards as defined by this chapter. Nothing in the Code of the Town of Nantucket shall affect the ability, power and duty of the Town and any other governmental entity to relocate moorings for the purpose of opening or maintaining a channel or main stream or for the Town and/or any other governmental entity to exercise rights, if any, to preserve and protect the public's right of navigation. *Editor's Note: Former Subsection I, restricting moorings for certain nonresidents, added 4-10-1989 ATM by Art. 118, approved 7-24-1989, which immediately followed this subsection, was repealed 4-4-2006 ATM by Art. 63, approved 8-2-2006.* **[Amended 4-12-1999 ATM by Art. 69, approved 8-10-1999]**

§ 137-5. Mooring permits.

- A. Permits for the use of mooring spaces shall be for a period of one year, or any fraction thereof, terminating on December 31 of each year, unless revoked by the Harbor Master for good cause, and shall be renewable annually for one year. Payment for mooring permits shall be made in full before the permit will be issued. **[Amended 4-10-2002 ATM by Art. 49, approved 7-31-2002]**
- B. In areas where no additional spaces are available, applicants therefor shall be placed on a continuing waiting list maintained at the office of the Harbor Master. The waiting list shall be a public document and shall be posted conspicuously. The waiting list shall include all applicants for moorings in chronological order of application, regardless of the applicants' preferences for particular mooring locations. The person at the top of the waiting list shall have priority to obtain the next available location, but may waive the right to the next available location if it is not in a place convenient for him or her without losing his or her place at the top of the waiting list. In the event of a waiver, the next person on the list shall be offered the location, and if that person waives the right to the location, the next successive person shall be offered the location, et cetera, until someone in succession on the list takes it and registers a mooring there. Notice to the person entitled to the next available mooring shall be in writing or by any reasonable method.
- C. All boats 10 feet or under, without power, shall be exempt from this section.
- D. All dinghies not in use between October 15 and April 1 on property controlled by the Town, shall be removed to the owner's property. **[Added 4-4-2006 ATM by Art. 63, approved 8-2-2006]**

§ 137-6. Hazards to navigation.

Moorings, buoys, lobster pots, crab pots, eel pots or other obstacles that will cause or create a hazard to navigation shall not be placed in areas usually used as channels for navigation. In cases of doubt, the Harbor Master shall be consulted in advance before setting them in place. Hazards to navigation shall be subject to summary removal by the Harbor Master, without notice or hearing, and neither the Harbor Master nor the Town shall be responsible for any losses to the owners thereof caused by such removal.

§ 137-7. Abandonment of vessels, moorings, etc.

- A. Except in a maritime emergency currently affecting those aboard or others in the immediate vicinity, no vessel, mooring or other object shall be deliberately abandoned, sunk or otherwise placed in waters within the Town of Nantucket where it may constitute a hazard. Any abandoned, sunk or improperly placed vessel, mooring or object so found and any vessel otherwise improperly secured, swamped, sunk, washed ashore or found in a restricted area may be ordered by the Harbor Master to be removed or relocated. The Harbor Master shall give notice to the owner, in writing, of his order as follows: (a) if the owner is known, then by mail or hand-delivery; (b) if the owner is unknown, then by publication in a newspaper of general circulation within the Town. If, after 10 days following the publication or written notice as provided in the preceding sentence, the owner has failed to remedy the conditions leading to the order, the Harbor Master may take appropriate steps for removal or relocation of same. At any time, the Harbor Master, notwithstanding the foregoing, may act immediately in the event of an emergency to take appropriate steps for immediate removal or relocation of any watercraft that presents an imminent threat to life or property; provided, however, that as soon as practicable after taking such action, notice of the action taken shall be provided in the manner set forth in this section. If, after 30 days, the owner of the removed vessel shall fail to reimburse the Town for removal or relocation costs, the vessel may then, at the discretion of the Harbor Master, be sold at public auction to cover the costs of removal or relocation. If said auction produces surplus proceeds after payment of the costs of removal, said surplus shall

be held in a separate account and be paid over to the owner upon proof of ownership.
[Amended 4-12-1999 ATM by Art. 69, approved 8-10-1999; 4-12-2004 ATM by Art. 48, approved 9-3-2004]

- B. Nothing in the above shall be deemed to prevent emergency action by the Harbor Master with or without notice to the owner if, in his judgment, such action is necessary.

§ 137-8. Diving from wharves prohibited.

There shall be no diving from any public wharves, piers or from any bulkheads abutting any waterways of the Town.

§ 137-9. Underwater divers.

Divers using fins and/or masks and/or snorkel tubes or self-contained underwater breathing devices, except within designated and marked swimming areas, shall:

- A. While diving, display a standard diver's flag consisting of a red field with a white diagonal stripe of a size not less than 12 inches by 15 inches.
- B. Display such flag prominently on a float or other similar device which shall hold such flag upright and shall extend vertically a minimum distance of three feet from the surface of the water so as to be visible to passing boats.
- C. Stay within 100 feet of the aforementioned flag or move the flag on said float or device with him while he is submerged and return to the surface within 100 feet of said flag.
- D. No diver shall operate in properly marked or customary boat channels unless, for special purposes, permission is granted in advance by the Harbor Master. The diver shall have the responsibility to inquire of the Harbor Master about the location of customary boat channels if he is in doubt about the situation.
- E. On approaching a diver's flag, all boats must proceed with caution and shall remain outside a one-hundred-foot radius from said diver's flag.
- F. Divers operating at night shall be equipped with and use appropriate underwater lights, in addition to displaying the aforementioned diver's flag.

§ 137-10. Town launching ramps.

- A. The usage of Town launching ramps shall be controlled from time to time by rules established by the Board of Selectmen and posted. These rules may include control of temporary parking of boat trailers and motor vehicles at or near the approach to each ramp.
- B. With the exception of charter or commercial fishing boats or a storm/repair emergency, persons using Town ramps for hauling of larger boats requiring cradles shall do so only with permission, in advance, in writing, from the Harbor Master. Cradles and/or boats shall not remain on the Town ramps for more than one hour.

§ 137-11. Pollution. [Amended 5-17-1988 ATM by Art. 103, approved 9-28-1988; 4-10-1989 ATM by Art. 112, approved 7-24-1989; 5-4-1993 ATM by Art. 52, approved 5-24-1993; 4-12-1999 ATM by Art. 69; approved 8-10-1999; 4-10-2000 ATM by Art. 55, approved 8-2-2000; 4-30-2003 ATM by Art. 63, approved 8-27-2003]

- A. The dumping or discharge of oil, sewage, dead fish, garbage, waste, rubbish or debris of any kind anywhere so as to pollute the waters, shores or beaches of the Town is prohibited. The use of on-board laundry or mechanical dishwashing machinery with over-board discharge is also prohibited in Nantucket waterways as defined in § 137-1. In support of the August 17, 1992, federal designation of Nantucket waters as a federal no-discharge zone, the discharge from all vessels of any sewage, whether treated or not, into such waters is prohibited. By May 1, 1990, all commercial piers, private and public, shall be equipped with working pump-out facilities. Facilities at each pier shall be at least adequate to fully service the maximum number of maximum-sized vessels able to tie up at that pier. In addition, the facility at the Town Pier in Nantucket Harbor shall be adequate to fully service all vessels both moored in the harbor and tied up at that pier.
- B. Any violations of this section will incur penalties of \$300. Each day or part thereof during which a discharge or dumping occurs shall constitute a separate violation. Subsequent violations may result in a denial of use of Town of Nantucket-owned and/or -operated port facilities or moorings. Any such denial shall be issued by the Harbormaster, after a hearing, subject to the right of the offender to an appeal to the Board of Selectmen, or, if applicable to the Department of Environmental Protection, pursuant to MGL c. 91, § 10A.

§ 137-12. Waterskiing.

- A. Waterskiing is prohibited on all waterways of the Town, except outside of navigation channels and swimming and mooring areas on Nantucket Sound, Polpis Harbor and Madaket Harbor. Waterskiers and boats towing them shall not operate in or across navigation channels at any time.
- B. Waterskiing, as hereinbefore permitted, is subject to the provisions of the General Laws of the Commonwealth of Massachusetts and to the further restriction that there shall be no waterskiing within 400 feet of bathers, divers, piers, wharves, floats, other boats or of any shore. "Waterskiing" shall include motor-propelled surfboards and water bikes and the towing or manipulation of a surfboard or other similar device behind a motorboat. Waterskiing in approved areas shall only be done during daylight hours. **[Amended 4-10-1989 ATM by Art. 110, approved 7-24-1989]**
- C. Said propelled surfboards may navigate along regular channels of navigation to reach and return from open waters where they are permitted to operate but shall not interfere with the operation of other vessels.

§ 137-13. Floats.

The placement of outhauls, temporary floats and/or rafts held by anchors or bottom moorings shall be subject to written approval of the Harbor Master. All such outhauls, floats or rafts will be identified with registration numbers assigned by the Harbor Master. Numbers assigned shall be permanently affixed to the land and seaward side of the float or raft in contrasting color and shall be a minimum of three inches in size.

§ 137-14. Occupancy of vessels. [Amended 5-4-1993 ATM by Art. 52, approved 5-24-1993]

No vessel, while said vessel is used as a residence, may remain overnight or be used as a residence in Nantucket harbors unless equipped with sewage holding tanks. All mooring permit applicants must provide the Harbor Master with a local contact who, within six hours' notice from the Harbor Master, will be available to aid the Harbor Master in the event of an emergency concerning the applicant's boat.

§ 137-15. Fish cars.

All fish cars in navigable waters of the Town shall be subject to the approval of the Harbor Master and shall be plainly marked according to law so that they shall be visible at all times. Stakes shall not be driven to be used for mooring any vessel or boat or for tying up any fish car, unless, in the judgment of the Harbor Master, their use will not be an obstruction. All cars shall be attached to a land point so that the attaching line does not exceed 10 feet beyond the mean low waterline. The Harbor Master may terminate any permission previously granted where, in his judgment, such termination is appropriate.

§ 137-16. Speed. [Amended 5-4-1993 ATM by Art. 52, approved 5-24-1993]

Within the outermost end of Jackson's Point inward and through the area defined within a line drawn from Coatue Point to the West Jetty on a two-hundred-seventy-degree magnetic heading, marked by an appropriate informational buoy and signs maintained by the Town, with the exception of designated areas for waterskiing, vessels shall be operated at the speed of which they can maintain steerage way and create a minimum wake, and in no case shall they be operated at more than posted speed limits. This rule shall not apply to vessels engaged in emergency operations.

§ 137-17. Compatibility with other regulations.

Nothing contained herein shall be held or construed to supersede or conflict with or interfere with or limit jurisdiction of the United States government or limit or conflict with the laws and regulations of the Commonwealth of Massachusetts, except that in case of concurrent laws or regulations in any case, it shall be intended that the stricter, more restrictive rule or regulation shall apply.

§ 137-18. Violations and penalties.

Whoever violates any of the provisions of this chapter or refuses or neglects to obey the lawful and reasonable orders of those empowered to enforce the same, or resists them in the discharge of their duties, shall be fined not less than \$50 for the first violation and not more than \$300 for each violation thereafter within the same calendar year. Where a vessel is or has been operated in violation of any provision of the chapter and the owner, operator or other responsible person cannot be found within a twenty-four-hour period or where it appears that the vessel and the person in violation will depart from the Town in order to avoid the enforcement of the penalties of this chapter, the Harbor Master may seize and hold said vessel as security and may move it to a safe place of storage, including dry land storage, until the violation has been disposed of administratively or judicially; and if a violation has been found, the costs of seizing and holding said vessel shall be assessed against the vessel, and the vessel shall be sold at public auction to pay such penalties and costs if not otherwise paid. If said auction produces surplus proceeds after payment of penalties and costs, said surplus shall be held in a separate account and be paid over to the owner of the vessel upon proof of such ownership.

§ 137-19. Complaints.

All complaints concerning the use of moorings and movements of such vessels on the waterways of the Town shall be submitted in writing to the Marine Department for its action. All complaints concerning waterway facilities, wharves, docks, ramps, dredging and related matters shall be submitted in writing to the Board of Selectmen. Neither the Harbor Master nor the Board of Selectmen shall be required to hold a hearing or take action on any matter not first submitted in writing.

§ 137-20. Enforcement. [Amended 4-6-1987 ATM by Art 32, approved 7-15-1987; 4-12-1999 ATM by Art. 69, approved 8-10-1999]

The Marine Superintendent, the Harbor Master and Assistant Harbor Masters are hereby designated enforcing persons hereunder. The enforcing person may, as an alternative to initiating criminal proceedings, proceed to a noncriminal disposition of any violation of this chapter pursuant to the procedures set forth in MGL c. 40, § 21D.

§ 137-21. Personal watercraft. [Added 4-12-1994 ATM by Art. 69, approved 4-29-1994; amended 4-10-2000 ATM by Art. 54, approved 8-2-2000; 4-10-2002 ATM by Art. 51, approved 7-31-2002]

No person shall engage in the business of renting to the public, for public operation, any personal watercraft, jet ski, surf jet, wet bike or any motorboat that uses an inboard motor powering a water jet pump or a propeller as its primary source of motive power and that is designed to be operated by a person sitting, standing or kneeling on the vessel rather than the conventional manner of sitting or standing inside a vessel within the waters of the commonwealth and within all coastal waters and inland bodies of water as lie within the limits of the Town of Nantucket without first having obtained a license to do so from the Town of Nantucket Board of Selectmen in compliance with this section and in compliance with all federal, state or local laws pertaining to their use.

A. As used in this section, the following terms shall include but are not limited to:

JET SKI — A ski propelled by machinery and designed to travel over water.

PERSONAL WATERCRAFT — A small vessel of less than 16 feet in length which uses an inboard motor powering a waterjet pump or a propeller as its primary source of motive power and that is designed to be operated by a person sitting, standing or kneeling on the vessel rather than the conventional manner of sitting or standing inside a vessel. This term includes jet skis, wet bikes and surf jets.

SURF JET — A surfboard propelled by machinery and designed to travel over water.

WET BIKE — A vessel designed to travel over water, supported by skis propelled by machinery.

B. Subject to such approvals of the commonwealth as may be appropriate, the Board of Selectmen shall adopt rules, regulations and reasonable fees for the issuance of such licenses, renewals thereof and operation of licensees, including but not limited to:

- (1) Adequate insurance for the protection of the public;
- (2) An appropriately equipped chase boat required at all times;
- (3) Personal safety equipment for the safety of users of rented equipment;
- (4) Location of premises so as to be consistent with other water and harbor uses and with the Town's Harbor Plan;
- (5) Loading, unloading and storage of petroleum products intended for use in personal watercraft, jet skis, surf jets or wet bikes in accordance with recommendations as may be made by the Chief of the Fire Department of the Town;
- (6) Designated area for use consistent with navigation and other public uses;
- (7) That if any of the rules and regulations are declared unlawful for any reason, the remaining rules and regulations shall continue in full force and effect.

C. On land owned by the Town of Nantucket, the use of, the rental of and the operation of

personal watercraft shall be prohibited.

- D. No person shall operate any personal watercraft jet ski, surf jet or wet bike within the waters comprising Nantucket Harbor, as shown on the National Oceanic and Atmospheric Administration (NOAA) navigational chart Number 13241, northerly to the end of the east and west jetties or in the established navigation lane between said jetties easterly to the Head of the Harbor, in Polpis Harbor or along any portion of the shoreline of Nantucket Harbor. Said personal watercraft shall be launched from the Children's Beach boat ramp and shall navigate through Nantucket Harbor along the most direct route as marked by buoys, to Nantucket Sound.
- E. No person shall operate any personal watercraft, jet ski, surf jet or wet bike within the waters bounded by a line drawn from "The Rock" off the "Fortieth Pole" and marked by a hazard buoy, northwesterly to the R-2 lighted bell buoy, northwesterly to the westernmost point of Muskeget Island, southeasterly to the westernmost tip of Smith's Point including the entire shorelines of Muskeget, Tuckernuck and New Smith's Point (Esther Island). Said personal watercraft shall be launched from the Walter S. Barrett and Jackson Point public access boat ramps and shall navigate through Hither Creek along the most direct route as marked by buoys, to the westernmost tip of Eel Point, thence north to Nantucket Sound or south to the Atlantic Ocean.
- F. No person shall operate any personal watercraft, jet ski, surf jet or wet bike within or on the waters of the great ponds or any interior body of water of less than 300 acres in size on Nantucket or Tuckernuck Islands or on New Smith's Point (Esther Island).
- G. No personal watercraft shall be transported to, or launched from, a public beach or public beach parking area, a public boat ramp or public boat ramp parking area except those named in Subsections D and E.
- H. Exemptions. In addition to the exemptions in § 137-22, personal watercraft may be operated within the waters described in Subsections D, E and F if the personal watercraft is needed for emergency purposes when there is reasonable belief that such use is necessary to protect persons, animals or property.
- I. And to authorize and direct the Board of Selectmen to take any other action necessary relating to any rules and regulations promulgated thereunder or take any other action related to the foregoing, subject to such approvals of the Commonwealth as may be required.

§ 137-22. Exemptions. [Added 4-10-2000 ATM by Art. 56, approved 8-2-2000]

Rescue personnel are exempt from § 137-21 while engaged in training exercises, emergency operations and ordinary law enforcement activities.

§ 137-23. Water kiteboarding. [Added 4-12-2004 ATM by Art. 47, approved 9-3-2004]

- A. No person shall engage in the business of renting to the public kiteboarding equipment to be used by such renter, within the waters of Nantucket for the activity of kiteboarding, and further no person shall engage in the business within the waters of Nantucket for the purposes of training, teaching, and/or coaching the activity of kiteboarding using actual kiteboards for use in the waters of Nantucket, without first having obtained a permit to do so from the Nantucket Board of Selectmen in compliance with this section and in compliance with all federal, state or local laws.
- B. "Kiteboarding" is the use of a kite utilizing wind and air to lift, provide power or energy to a harnessed rider/passenger who is equipped with a board for touch down, whether such board is formally a surfboard, kite board, wake board, or other stabilizing flat object, used for the

recreational purposes of kiteboarding.

- C. Subject to such approvals of the Commonwealth as may be appropriate, the Board of Selectmen shall adopt rules and regulations and reasonable fees for the issuance of such licenses, renewals thereof and operation of licensees and for the regulation of recreational kiteboarding generally to assure the safety and convenience of the public, including but not limited to: **[Amended 4-4-2006 ATM by Art. 63, approved 8-2-2006]**
 - (1) Adequate insurance for the protection of the public;
 - (2) An appropriately equipped chase boat required at all times;
 - (3) Personal safety equipment for the safety of users of rented equipment;
 - (4) Avoidance of interference with other water and harbor uses;
 - (5) Loading and unloading of kiteboarding equipment.
- D. This section may be enforced by any police officer, the Harbor Master, or any of their designees, using noncriminal tickets pursuant to §§ 1-2 through 1-6 of the Code of Nantucket.